

WESTERN AUSTRALIA

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REAL ESTATE AND BUSINESS AGENTS  
ACT 1978

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**REAL ESTATE AND  
BUSINESS AGENTS  
(GENERAL)  
REGULATIONS 1979**

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WESTERN AUSTRALIA

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WESTERN AUSTRALIA

REAL ESTATE AND BUSINESS AGENTS ACT 1978

REAL ESTATE AND BUSINESS AGENTS  
(GENERAL) REGULATIONS 1979

**Citation**

1. These regulations may be cited as the *Real Estate and Business Agents (General) Regulations 1979*<sup>1</sup>.

**Interpretation**

2. In these regulations, unless the context otherwise requires—

“Ministry” means the Ministry of Consumer Affairs of the State.

[*Regulation 2 amended in Gazette 3 February 1989 p. 360.*]

**Common seal**

3. (1) The common seal of the Board shall be in the form of a circular embossment inscribed with the passage “Real Estate and Business Agents Supervisory Board—Western Australia” around its circumference and the coat of arms of Western Australia in its centre.

(2) The common seal shall be kept in safe custody by the Registrar and shall not be applied to any document except pursuant to a resolution of the Board and upon the common seal being so applied the document shall be signed by the Chairman and either the Registrar or another officer nominated by the Board for that purpose.

(3) Every resolution to apply the common seal to a document shall be recorded in the minutes of the meetings of the Board.

**Fees**

4. The fees set out in Schedule 1 shall be payable in respect of the matters prescribed in that Schedule.

[*Regulation 4 amended in Gazette 2 July 1982 p. 2334.*]

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**Notice of application for licence**

5. (1) Notice of an application for the grant of a licence to be advertised pursuant to section 24 (2) of the Act—

- (a) shall be in a form approved by the Board; and
- (b) shall be published by the Board in an issue of the newspaper known as "The West Australian" on a Saturday not less than 14 days before the day fixed for the hearing of the application.

[(2) deleted]

[Regulation 5 amended in Gazette 26 October 1990 p. 5370.]

**Prescribed examinations**

6. The prescribed examinations for the purposes of clause 1 (a) of the Schedule to the Act are—

- (a) the examinations which are required to be passed, by the Technical and Further Education Division of the Education Department, for—
  - (i) the conferring of a Certificate in Real Estate Management; or
  - (ii) the completing of Stage 1 of an Associate Diploma of Business (Real Estate);
- (b) the examinations required to be passed for the conferring of a Diploma in Valuations by the Curtin University of Technology<sup>2</sup>, together with the examinations conducted by that body in the following courses—
  - Accounting 203.
  - Property Marketing and Management; or
- (c) the examinations required to be passed for the conferring of an Associate Diploma in Valuation or a Bachelor of Business (Valuation and Land Administration) by the Curtin University of Technology, together with the examinations conducted by that body in the following courses—
  - (i) Property Marketing and Management and either Accounting Systems 153 or Accounting 203; or
  - (ii) Real Estate Business 250 and Real Estate Business 300.

[Regulation 6 amended in Gazettes 28 February 1986 p. 668; 8 August 1986 p. 2870; 8 May 1987 p. 2103; 20 July 1990 p. 3461.]

**Prescribed qualifications for sales representatives**

6A. The prescribed qualifications for the purpose of section 47 (2) are—

- (a) the Certificate for Real Estate Sales Representatives conferred by the Technical and Further Education Division of the Education Department; or
- (b) the Certificate for Real Estate Sales Representative conferred by the Real Estate Institute of Western Australia Incorporated.

[Regulation 6A inserted in Gazette 26 September 1980 p. 3312; amended in Gazette 8 August 1986 p. 2871.]

**Grant of certificate of registration**

**6B.** The Board may grant a certificate of registration under section 47 of the Act to an applicant—

- (a) who applies within one year of completing either of the qualifications specified in regulation 6A;
- (b) who has held a certificate of registration for at least 3 of the 5 years immediately preceding his application; or
- (c) who complies with regulation 6 (a), (b) or (c).

*[Regulation 6B inserted in Gazette 8 May 1987 p. 2103; amended in Gazettes 30 October 1987 p. 4047; 12 August 1988 p. 2770.]*

**Particulars to be included in registers**

**7.** The prescribed particulars to be recorded, pursuant to section 133 (2) of the Act, by the Registrar—

- (a) in the register of licensees are, in respect of each licensee—
  - (i) the name and address of the licensee;
  - (ii) where the licensee is a firm, the name, address, and, where applicable, licence number of each partner constituting the firm;
  - (iii) where the licensee is a body corporate, the name, address, and, where applicable, licence number of each director of the licensee;
  - (iv) the licence number and the date on which the licence held by the licensee was granted;
  - (v) any special condition to which the licence held by the licensee is subject;
  - (vi) where a claim has been made or sustained against the Fund in respect of the licensee, a reference to that claim;
- (b) in the register of holders of current triennial certificates are, in respect of each holder—
  - (i) the name and address of the holder;
  - (ii) any business name under which the holder carries on business as an agent;
  - (iii) the situation of the registered office of the holder;
  - (iv) where the holder is a firm, the name, address, and, where applicable, licence number of each partner constituting the firm;
  - (v) where the holder is a body corporate, the name, address and, where applicable, licence number of each director of the holder;
  - (vi) where the holder is a firm or body corporate, the name and address of the person in *bona fide* control of the business of the holder;
  - (vii) the licence number, and the date on which the licence held by the holder of the certificate was granted;

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- (viii) the certificate number, and the date on which the certificate currently held by the holder was granted or renewed, as the case may be;
  - (ix) the name and address of the auditor appointed by the holder;
  - (x) the amount of any payment made under section 113 of the Act by the holder;
- (c) in the register of holders of current certificates of registration are, in respect of each holder—
- (i) the name and address of the holder;
  - (ii) the certificate number and the date on which the certificate currently held by the holder was granted or renewed, as the case may be;
  - (iii) any special condition to which the certificate held by the holder is subject;
  - (iv) the amount of any payment made under section 113 of the Act by the holder;
  - (v) the name and address of the licensee or developer for and on behalf of whom the holder acts or by whom the holder is employed;
  - (vi) the date upon which a holder commenced in that capacity to act for and on behalf of, or be employed by, the licensee or developer referred to in subparagraph (v);
  - (vii) the name and address of every other licensee or developer for and on behalf of whom the holder has acted, or by whom the holder has been employed in that capacity, and the dates on which he commenced and ceased to so act or be employed by each of them, respectively.

**Prescribed form of application for assistance from Home Buyers Assistance Fund**

**7A.** For the purposes of section 131L (1) of the Act, the prescribed form of application is in the form of Form 1 set out in Schedule 2.

*[Regulation 7A inserted in Gazette 2 July 1982 p. 2355.]*

**Notice of changes in particulars**

- 8.** A licensee shall give to the Registrar notice in writing—
- (a) where the licensee is a body corporate, of any change in the directors of the body corporate;
  - (b) where the licensee is a firm and any of the persons by whom or by which it is constituted is a body corporate, of any change in the directors of any such body corporate;
  - (c) where the licensee is a firm or body corporate, of any change in the person in *bona fide* control of the business operated under the licence held by the licensee,

within one month of the change.

Penalty: \$100.00.

**Recovery of fees, fines and costs**

**9.** (1) The amount of—

- (a) any fees prescribed by these regulations;
- (b) any fine ordered by the Board to be paid pursuant to the Act;
- (c) any costs ordered by the Board to be paid to the Registrar upon the determination of any proceedings,

may be sued for and recovered by the Registrar on behalf of the Crown in any court of competent jurisdiction.

(2) Where, upon the determination of any proceedings, the Board makes an order for costs in favour of a person other than the Registrar, the amount of those costs may be sued for by that person and recovered from the person against whom the order is made, in any court of competent jurisdiction.

**Refund to unsuccessful applicant**

**10.** An amount paid to the Board under section 113 of the Act in respect of an application referred to in that section shall, where that application does not result in the grant or renewal of a licence, triennial certificate, or certificate of registration, be refunded to the applicant from the Fidelity Guarantee Fund.

**Deposits Trust.**

**Prescribed percentage for purposes of s. 127**

**11.** For the purposes of section 127 of the Act the prescribed percentage is 25%.

*[Regulation 11 amended in Gazette 20 January 1899 p. 132.]*

**Prescribed days for application of Trust Interest Account**

**11A.** For the purposes of section 130 of the Act the prescribed days upon which moneys accruing to the credit of the Trust Interest Account shall be applied are 30 June and 31 December in each year.

*[Regulation 11A inserted in Gazette 26 June 1981 p. 2293.]*

**Prescribed proportions under section 130 (1) (b)**

**11AA.** For the purposes of section 130 (1) (b) the prescribed proportions are—

- (a) to the Fidelity Fund—25%;
- (b) to the Assistance Fund—50%; and
- (c) of or towards the costs and expenses of educating persons who are licensed or registered under the Act or are concerned in the administration of the Act or the public generally prescribed in regulation 11B—25%.

*[Regulation 11AA inserted in Gazette 18 December 1987 p. 4516; amended in Gazettes 3 February 1989 p. 360; 28 June 1991 p. 3119.]*

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**Prescribed costs and expenses under section 130 (1) (b) (iii)**

11B. Costs and expenses incurred for the following purposes are prescribed for the purposes of section 130 (1) (b) (iii) of the Act—

- (a) educational courses culminating in the examinations prescribed by regulation 6 or the qualifications prescribed by regulation 6A;
- (b) educational courses, seminars and workshops conducted by the Board or the Ministry;
- (ba) educational courses provided by—
  - (i) the Real Estate Institute of Western Australia Incorporated; or
  - (ii) the Technical and Further Education Division of the Education Department of the State,for the purpose of providing persons, licensed or registered under the Act, with instructional and facilitation skills necessary to present effective group training sessions;
- (c) all other educational courses in connection with the functions of persons licensed or registered under the Act conducted by—
  - (i) the Building Owners and Managers Association in the State;
  - (ii) Curtin University of Technology in the State;
  - (iii) the Real Estate Institute of Western Australia Incorporated; or
  - (iv) the Technical and Further Education Division of the Education Department of the State;
- (d) participation by members and officers of the Board in national annual real estate licensing authorities conferences;
- (e) the holding in the State, in turn by rotation, of the national annual real estate licensing authorities conference;
- (f) participation by members and officers of the Board in special work groups formed through the national conferences of licensing authorities to inquire into matters affecting the operations of real estate agents, business agents and sales representatives;
- (g) participation by members and officers of the Board, the Ministry or educational institutions in deliberations on common core education programmes for qualification for grant of licences or certificates of registration;
- (h) research and re-writing of education programmes for qualification for grant of licences or certificates of registration;
- (i) capital equipment and facilities for use in conjunction with the conduct of educational courses referred to in paragraphs (a), (b), (ba) and (c).

*[Regulation 11B inserted in Gazette 3 February 1989 p. 360; amended in Gazette 15 June 1990 p. 2723 (Erratum in Gazette 22 June 1990 p. 3034).]*

**Claims against the Fidelity Fund**

12. A claim against the Fidelity Guarantee Fund shall be made in writing and be verified by a statutory declaration made by a person who deposes to the facts therein set out of his own knowledge.

**Codes of conduct**

13. Any code of conduct that the Board may from time to time prescribe pursuant to section 101 of the Act shall be published in the *Government Gazette*.

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**SCHEDULE 1**

	Fees	[reg 4.]
	\$	
1. Application for licence . . . . .	54	
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3. Grant of licence to firm . . . . .	488	
4. Grant of licence to body corporate . . . . .	488	
5. Renewal of triennial certificate . . . . .	325	
6. Grant of certificate of registration . . . . .	64	
7. Renewal of certificate of registration . . . . .	64	
8. Grant of Business Agent's Permit . . . . .	152	
9. Renewal of Business Agent's Permit . . . . .	121	
10. Inspection of a register . . . . .	10	
11. Copy (certified or uncertified) or an extract of an individual registration—		
—first page . . . . .	10	
—each subsequent page . . . . .	2	
12. Copy (certified or uncertified) or an extract of all registrations in a register . . . . .	271	

*[Schedule 1 inserted in Gazette 14 August 1992 pp. 4011-2.]*

**SCHEDULE 2**

(Regulation 7A)

Forms

Form No. 1

Western Australia

*Real Estate and Business Agents Act 1978* (section—131L (1)).

*Real Estate and Business Agents (General) Regulations 1979* (regulation 7A).

**APPLICATION FOR GRANT OF WHOLE OR ANY PART OF INCIDENTAL  
EXPENSES IN CONNECTION WITH PURCHASE OF A PROPERTY WITH A  
DWELLING OR PARTIALLY ERECTED DWELLING THEREON.**

To be completed by applicant and submitted to bank or building society with  
application for a housing loan.

All details requested in this application must be supplied.

1. Particulars of applicant:		
Full name	Occupation	Date of birth / /
Present address	Telephone No.	
	(Business)	(Home)
Name of spouse	Ages of dependent children	

2. Particulars of gross income and any other grant:		
Weekly gross income from employer		
(a) Applicant  \$	(b) Applicant's spouse  \$	(c) Any other dependent person(s) residing with applicant  \$

Do you, your spouse or dependants receive any income other than from main  
employment?

If "Yes", give details please  Where applicable Yes  No

.....  
.....

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Have you received, or are you eligible to receive, a Home Deposit Assistance Scheme Grant or any other form of free housing assistance? Yes  No

If "Yes", give details please

.....  
.....

**3. Particulars of any other real estate property owned or previously owned (includes joint ownership with a former spouse)**

Have you or has your spouse or any other dependent person residing with you ever owned, any real estate property in this State, in other States or Territories of Australia or in any overseas country. Yes  No

If so, please give particulars of property and ownership .....

.....

**4. Particulars of property to be purchased:**

Is dwelling complete?

Partially erected?

Address of property

Purchase price

Amount of loan

\$

1st Mortgage

2nd Mortgage (if any)

\$

\$

Name of lending authority/authorities

Name of real estate agent:

**5. Particulars of incidental expenses:**

Expense	\$	Carried forward	\$
Stamp duty		Bank or building society fee for lodging this application	
Registration fees		Mortgage guarantee fee or mortgage insurance premium (not fire insurance)	
Settlement agents fees			
Solicitors fees			
Valuation fees			
Inspection fees			
Establishment fee			
<b>Sub Total</b>	<b>\$</b>	<b>Total</b>	<b>\$</b>

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I do solemnly declare that (i) the information listed above is true and correct;  
(ii) the dwelling is to be used as a house by me and my spouse and any dependent children.

And I make this solemn declaration by virtue of section 106 of the *Evidence Act 1906*.

Declared at .....

on the ..... day of .....

19 .....

Declarant.

Before me .....

Justice of the Peace  
(or authorized person)

[*Schedule 2 inserted in Gazette 2 July 1982 pp. 2335-6; amended in Gazette 30 December 1983 pp. 5121-22.*]

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NOTES

<sup>1</sup> This reprint is a compilation as at 1 October 1992 of the *Real Estate and Business Agents (General) Regulations 1979* and includes all amendments in the reprint published in the Gazette on 26 November 1982 and all amendments effected by the other regulations referred to in the following Table.

**Table of Regulations**

Regulations	Gazettal	Commencement	Miscellaneous
<i>Real Estate and Business Agents (General) Regulations 1979</i> (Regulations effecting amendments in the previous reprint are not referred to in this Table)	31 August 1979 pp. 2616-8	31 August 1979	
<i>Real Estate and Business Agents (General) Amendment Regulations 1983</i>	21 October 1983 p. 4298	1 January 1984	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1983</i>	30 December 1983 pp. 5121-2	30 December 1983	
<i>Real Estate and Business Agents (General) Amendment Regulations 1984</i>	21 December 1984 p. 4191	21 December 1984	
<i>Real Estate and Business Agents (General) Amendment Regulations 1985</i>	21 June 1985 p. 2262	21 June 1985	
<i>Real Estate and Business Agents (General) Amendment Regulations 1986</i>	28 February 1986 p. 668	28 February 1986	
<i>Real Estate and Business Agents (General) Amendment Regulations 1986</i>	13 June 1986 pp. 1997-8	1 July 1986	

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Table of Regulations—*continued*

Regulations	Gazettal	Commencement	Miscellaneous
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 3) 1986</i>	8 August 1986 pp. 2870-1	1 February 1987	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 4) 1986</i>	24 December 1986 p. 4998	24 December 1986	
<i>Real Estate and Business Agents (General) Amendment Regulations 1987</i>	8 May 1987 p. 2103	8 May 1987	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1987</i>	4 September 1987 p. 3519	4 September 1987	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 3) 1987</i>	30 October 1987 p. 4047	30 October 1987	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 4) 1987</i>	18 December 1987 p. 4516	18 December 1987	
<i>Real Estate and Business Agents (General) Amendment Regulations 1988</i>	12 August 1988 p. 2770	12 August 1988	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1988</i>	2 September 1988 p. 3466	2 September 1988	
<i>Real Estate and Business Agents (General) Amendment Regulations 1989</i>	20 January 1989 p. 132	20 January 1989	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1989</i>	3 February 1989 p. 360	3 February 1989	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 3) 1989</i>	30 June 1989 p. 1979	1 July 1989	

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Table of Regulations—*continued*

Regulations	Gazettal	Commencement	Miscellaneous
<i>Real Estate and Business Agents (General) Amendment Regulations 1990 (Erratum 22 June 1990 p. 3034)</i>	15 June 1990 p. 2723	15 June 1990	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1990</i>	20 July 1990 p. 3461	20 July 1990	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 3) 1990</i>	1 August 1990 pp. 3651-2	1 August 1990	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 4) 1990</i>	26 October 1990 p. 5370	26 October 1990	
<i>Real Estate and Business Agents (General) Amendment Regulations 1991</i>	28 June 1991 p. 3119	28 June 1991	
<i>Real Estate and Business Agents (General) Amendment Regulations (No. 2) 1991</i>	13 December 1991 p. 6160	13 December 1991	
<i>Real Estate and Business Agents (General) Amendment Regulations 1992</i>	14 August 1992 pp. 4011-2	14 August 1992	

<sup>2</sup> Title changed under *Reprints Act 1984* s. 7 (3) (h)